# Nutrient Management Strategy
# Public Consultation

## A PROPOSAL

Submitted to:
The Minister of Conservation
By:
The Manitoba
Clean Environment
Commission

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# RECOMMENDED PROPOSAL
# Nutrient Management Strategy
# Consultation Process

## Background

On March 12, 2001, the Minister of Conservation wrote to the Clean Environment Commission (CEC) asking it to recommend a public consultation process to ensure effective public input into the development of a Nutrient Management Strategy planned by the department. Before recommending a public consultation strategy for this initiative, the CEC needed to understand the strategy in its proper context with the department's overall Water Management Plan and the discussions around nutrient loading in conjunction with the Simplot hearings. Having completed the Simplot hearings, and with the Water Management discussions well underway, the Commission is pleased to submit this report outlining a comprehensive public consultation process which will ensure a fair opportunity for all interested parties to become involved in the development and ultimate implementation of a nutrient management strategy in Manitoba. This report sets out, as well, ideas for an ongoing role for the Clean Environment Commission to facilitate such a process.

## General

Manitoba Conservation, as a part of an overall water strategy, has initiated a focused Nutrient Management Strategy to address the negative impacts that plant nutrients have on water quality. Plant nutrients such as phosphorus and nitrogen are contributed to water courses from virtually all of man's activities including application of artificial fertilizer to crop lands, spreading animal manure, discharge of municipal and industrial effluents, enhancement of drainage networks, discharges from private dwellings and cottages, plus others. Just as application of fertilizers to lands enhances agricultural productivity or nourishes residential lawns, excess nutrients in water bodies artificially enhances algal and rooted plant growth. Abundant or nuisance algal growth is probably one of the largest water quality issues facing Manitoba at the present time.

Nuisance algal growth can result in diminished water quality, cause oxygen depletion, degrade fish habitat, cause taste and odour problems in drinking water, and affect livestock, pets, and fish by the production of potent toxins by some species of algae.

The issue of nutrients in water is highly complex and will have impact on most Manitobans. In order to protect the quality of water in Manitoba consistent with the strategy, actions that are contentious and expensive may need to be taken. It is critical that the actions and requirements of the government be, and be seen to be, based on sound science and a reasoned, practical strategy. Public credibility of the program is important, as general acceptance of the goals and objectives are essential to its ultimate success. In this regard, a comprehensive and effective public consultation process needs to be an integral part of the strategy and its implementation. Although the focus of this proposal is on consultation with the public, it will be important to establish a parallel process with the relevant federal and provincial government departments – indeed, their rules will govern implementation, amended as necessary.

Ultimately, the implementation of the Nutrient Management Strategy will likely be on a watershed basis. One of the parties with a high level of interest in water quality and the land uses associated with its protection, is the Aboriginal community throughout the province. The consultation component of the nutrient management strategy will require effective dialogue with this growing segment of the Manitoba population. The consultation process will need to recognize and be consistent with the direction the courts have been taking with respect to meaningful consultation with Aboriginal peoples. Hopefully, the consultation process can be undertaken in an integrated fashion, with discussions involving all interested parties together, rather than running separate, parallel processes. This proposal has been formulated on that assumption.

Throughout the process, it is important to recognize that there is currently a significant sense of "consultation fatigue" among the usual participants. In this regard, everything possible should be done to ensure that processes are efficient and effective, and are linked to similar initiatives wherever possible. Processes must be open and transparent with all relevant information readily accessible, in an understandable format. As the ideas in this report have not yet been discussed with the public, it would be advisable to undertake a round of consultation with interested parties to determine if modifications will be needed before this consultation process is initiated.

In order to effectively involve the public, the Nutrient Management Strategy should include the following objectives for public consultation in the process:

1. **a) Provide general information about the Nutrient Management Strategy to a broad based audience.** Given the potential for controversy later in the process, and the need to prepare Manitobans for the possibility of future changes with significant impact, it is important that they understand early the consequences of these changes, and opportunities they will have to influence the decisions. Information will need to include details of the strategy, its rationale, objectives, process, timelines, possible ramifications and opportunities for input at various

stages. A part of this communication should be a commitment to openness and transparency through an effective and regular flow of information.

**b) Establish, and provide to the public, a set of water quality principles related to nutrient management that would form the umbrella under which subsequent decisions would be made.** It would be helpful to the overall process if some broad principles were developed at the outset that would form the foundation for the subsequent decisions. These principles would guide the objective development and setting exercises on a consistent basis across the province. The development of these principles would also provide the public with some input into the direction of the initiative and provide comfort for the rest of the process. Much of the foundational work with respect to a set of principles would already be available in prior work and documentation. This could be essentially a matter of compiling and consolidating principles in various documents into a single, understandable package for general distribution to Manitobans.

2. **Provide opportunity for effective input into the technical components of the strategy.** The nutrient management strategy, to be effective, must be based on sound science. It is therefore critical that expertise within the province is identified and provided opportunity to become involved in the technical components of the strategy development and implementation:
    a. assembling and assessing the necessary information;
    b. proposing regional nutrient objectives for rivers and streams; and
    c. proposing nutrient objectives for Lake Winnipeg and other lakes, where possible.

3. **Provide opportunity for effective, broad based input into development of an implementation plan.** The implementation of the nutrient objectives will be the component of the overall nutrient management strategy that will be the most contentious, as it will directly impact people, many of whom have had little or no understanding of, or influence over, the strategy, including the objectives they will now need to meet. Success of the strategy will be more likely achieved if there is understanding and ownership of the objectives, than if the strategy relies only on enforcement of unpopular requirements. The implementation stage, where possible, should be linked to watershed planning, wherein the goals and future of the watershed are publicly debated and decided by the citizens and government, and the implementation of the objectives is responsive to the plan.

## Nutrient Management Advisory Committee

In order to ensure the objectivity and technical accuracy of the information, and to ensure appropriate public and expert input into the strategy and its implementation, it would be helpful to have a visible and effective non-government component to the overall strategy development and management. A Nutrient Management Advisory

Committee could be appointed to advise the department in its planning and implementation of the strategy, and to ensure the above objectives are met. This Advisory Committee (AC) would: provide broad advisory oversight to the strategy; ensure the integration of sound scientific advice beyond what currently resides in the department; add a visible non-government component to the initiative; and enhance the credibility of the overall strategy.

It is recommended that such a Committee be solicited and struck as soon as possible to ensure its early involvement in the scientific as well as the objective setting components of the strategy. Members should include people with recognized expertise, and reflect a mix of scientific experience: academic; consulting; agriculture; municipal; industrial; and environmental. It will be important to ensure effective Aboriginal representation on the Committee, or to establish a working linkage with the Aboriginal Resource Council. The Clean Environment Commission should also participate on the Advisory Committee, and could act as Chair, which would provide for a secretariat for the public consultation aspects of the process.

The Terms of Reference of the Advisory Committee would include :

- Early consultation on the overall strategy for affirmation/modification (This proposed consultation process is untested, and should be the subject of some pre-consultation to ensure its effectiveness.)
- Advise on the substance and process for the Water Quality Principles
- Advise on monitoring priorities/data requirements
- Ensure the participation of the appropriate people/organizations
- Review and advise on the analysis/interpretation of data
- Advise on setting nutrient objectives and ensure consistency with the Water Quality Principles
- Advise on setting priorities for action
- Advise on regional implementation
- Advise on information dissemination, public consultation
- Participate in public consultation
- The role of the Clean Environment Commission with respect to the Advisory Committee

## *Consultation Plan*

Each of the three objectives for the Nutrient Management Strategy will require a different approach to ensure effective participation. The Advisory Committee would provide advice in each of the components of the overall consultation. A suggested approach for consultation for each of the objectives follows.

### Objective 1(a)

Provide general information about the Nutrient Management Strategy to a broad based audience, (with a secondary objective of inviting involvement in the technical discussions). It will be important to prepare quality information that will respond to questions from the public who may not currently be convinced of the need for such a comprehensive nutrient management strategy. These concerns may be more prevalent in the municipal and rural areas where the impacts of the strategy may be hardest felt.

### Process

- A combination of information dissemination and meetings
- Develop a brochure/information package for public consumption (consult with communications expert, such as Barb Czech)
- Post brochure on web site, place in Public Registry (all subsequent information should be available in these forms)
- Broad mailing – departmental list; AMM*, Manitoba Round Table, Aboriginal Resource Council, Winnipeg, ENGO's, Aboriginal organizations, consultants, associations, Conservation Districts, Watershed Districts, Planning Districts, other governments, EA Licence holders etc.
- Press release/media kits
- Include with other departmental mailings – COSDI, Water Management Strategy, etc.
- Offer technical information, call for comments
- Meetings where advantageous: AMM conference/regional meetings; Planning Districts

### Participants

- General public, AMM, Winnipeg, ENGO's, consultants, associations, Conservation Districts, Watershed Districts, Planning Districts, other governments, EA Licence holders etc.
- Other jurisdictions, federal government, First Nations, Aboriginal organizations, other provincial departments

** Association of Manitoba Municipalities – This organization provides a window into all the municipalities in Manitoba in a coordinated manner.*

**Relative timing**

- In advance of and concurrent with technical consultation: to begin immediately

**Information requirements**

- Brochure/bulletin
  - General – clear, easy to read
    - The problem, in layman's terms, here is what we are going to do, how, the process, possible outcomes and implications, timing (see Appendix 1), current and future consultation options

**Respective responsibilities**

- Manitoba Conservation, with Advisory Committee advice

**Other considerations (e.g. Linkages)**

- Proposed CEC Water Forum
- Link information dissemination to other departmental information initiatives – Water management, COSDI, watershed planning, etc.
- Keep in mind the need for this strategy to converge with the watershed planning initiative for implementation.
- Climate change initiatives

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**Objective 1 (b)**

Establish a set of water quality principles related to nutrient management that would form the umbrella under which subsequent decisions would be made.

**Process**

- Prepare a draft set of principles utilizing currently available information such as the Water Strategy documentation, the Water Management Sustainable Development Strategies, the COSDI report, the recent CEC Report on Simplot, the Livestock Stewardship Report, the Capital Region Report, etc.
- Circulate the draft widely to the interested public
- Provide opportunity for feedback/discussion through written submissions, meetings or workshops
- The appropriateness of the principles could be tested through a tailored public opinion poll or focus group
- Finalize the principles as the working document that will guide the subsequent nutrient management strategy discussion.

**Participants**

- Recipients of previous circulation of draft bulletin
- Scientific community – academics/consultants/government agencies

- Other jurisdictions, federal government, First Nations, Aboriginal organizations, other provincial departments
- Sophisticated stakeholders/licence holders
- Respondents from general circulation (see "relative timing", below)

**Relative timing**

- Concurrent with general information dissemination or immediately following, to target interested respondents

**Information Requirements**

- Draft principles, with information as to rationale, source and impacts

**Respective responsibilities**

- Preparation of draft principles – Manitoba Conservation, with Advisory Committee advice
- Information dissemination – Department
- Comment analysis/re-drafting Manitoba Conservation, with Advisory Committee advice.
- OR – CEC undertakes the above and suggests principles to the Department

**Other considerations (e.g. linkages)**

- Possible linkage with the general information dissemination (Objective 1(a))
- Poll could also test public awareness/understanding of overall issue

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**Objective 2 (a)**

Provide opportunity for effective input into the technical components of the program

a) assembling and assessing the necessary information

**Process**

- Solicit input into priorities for data gathering, monitoring, analysis verification, conclusions
- Combination of information dissemination and meetings or workshops
- Circulate technical paper (new draft) with supporting information to
    - Previous circulation list
    - Respondents from general package circulation
    - Environment Act licence holders that have science capability or may be impacted – Simplot/Maple Leaf/McCains/etc.
- Depending on response (both level and substance) hold a workshop or meetings to provide opportunity for interested parties to participate in the discussions.

**Participants**

- Recipients of previous circulation of draft bulletin
- Scientific community – academics/consultants/government agencies
- Other jurisdictions, federal government, First Nations, Aboriginal organizations, other provincial departments
- Sophisticated stakeholders/license holders
- Respondents from general circulation

**Relative timing**

- Concurrent with, and beyond general information dissemination

**Information requirements**

- Technical Bulletin – scientific, yet readable
  - Level of detail to engage scientific community, whether academics or practitioners
- Technical information
  - Appropriate data, research, etc. to share with scientific community and engage them in technical discussions
  - Proposed monitoring/data gathering plans and priorities

**Respective responsibilities**

- Preparation/dissemination of material – Department
- Advice re contents/form/recipients of material – Advisory Committee
- Arranging meetings/workshops – Department
- Meetings/workshops design/facilitation – Department
- Report preparation/follow up – Department

**Other considerations (e.g. Linkages)**

- Water Management Strategy
- Watershed management plans, Conservation District plans
- National water quality initiatives

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**Objective: (ii)**

Provide opportunity for effective input into the technical components of the strategy…

b) proposing regional nutrient objectives for rivers and streams

**Process**

- Preparation of draft regional quality objectives for the Department, utilising the data/information collected to date, and with advice from Advisory Committee
- Undertake similar consultation process to that in Tier 1 to transform the draft regional objectives into draft regional action objectives, to become the basis for a broad based regional review. Efforts should be made to include regional expertise and the Advisory Committee at this stage.
- A number of options for involving the public are available depending on the situation in the specific region and the issues being raised:
  - i. Option A: Hand/ fact sheet from the region (unfunded). Hand recommended water quality level, based on desired use. Department assigns objectives to reflect proposal use.
  - ii. Option B: Meetings/workshops (regional) run by CEO or other appointed body to work towards agreement and recommendations on water quality level, based on desired use. Department assigns objectives to reflect proposal use.
  - iii. Option C: Regional collaborative decision making process led by CEO or other appointed body, to result in recommendations on water quality level, based on desired use. Department assigns objectives to reflect proposal use.
- The consultations will discuss the draft regional objectives, specifically:
  - Various objectives
  - Implications
  - Overall implementation strategies, linkages to watershed planning, agriculture, zoning, etc.
- Depending on the watershed in question, it may be necessary to invite participation from upstream jurisdictions (U.S. and EC). Although the province has no authority over their activities, they will need to be made cognizant with these jurisdictions to determine their future plans and attempt to have them factor Manitoba's objectives into their plans.
- We should recognize, it might be worth using a CEMS for some of these public from an interjurisdictional perspective. It might be possible to establish some "good neighbour" principles that can be applied on water quality generally, beginning with interim management. Failing that, at a bare minimum the Western Premiers Conference or the Premiers Conference might be worth while opportunities for discussion of this issue. This item has been considerably used, since officials committee between MB, SK and AB to the Upper Mission level has tended to a good starting point. Another possibility is the Western premiers and Governors, starting in the US component.

**Participants**

- The preparation of draft regional objectives – as in Tier 1 with expertise from respective regions

- The [illegible] as [illegible] approval [illegible] [illegible] [illegible]

**Process**

- Preparation of draft nutrient quality objectives by the Department, utilizing the data/information collected in 2(a), (and with advice from Advisory Committee
- Undertake similar consultation process to that in 2(a) to transform the draft nutrient objectives into draft objectives for Lake Winnipeg or other lakes, to become the basis for a broad based review in the Lake area. Efforts should be made to include regional expertise and the Advisory Committee at this stage.
- A number of options for involving the public are available depending on the situation in the specific region and the issues being raised:
    - i. Option A: Panel (CEC or other appointed panel): hear views from the region (watershed); Panel recommends water quality level, based on desired use; Department assigns objectives to reflect projected use.
    - ii. Option B: Meetings/workshops (regional) run by CEC or other appointed body to work towards agreement and recommendations on water quality level, based on desired use; Department assigns objectives to reflect projected use.
    - iii. Option C: Regional collaborative decision making process led by CEC or other appointed body, to result in recommendations re water quality level, based on desired use; Department assigns objectives to reflect projected use.
- The consultations will discuss the draft objectives for the lakes, specifically to deal with:
    - Nutrient objectives
    - Implications
    - General implementation strategies, linkages to watershed planning, regulation, timing, etc.
- Due to the impact of Lake Winnipeg on the province, consultation respecting nutrient quality would need to involve the citizens of Winnipeg, as well as those in more close proximity to the Lake.

**Participants:**

- For preparation of draft lake objectives – as in 2(a) with expertise from respective lake areas, where applicable
- For consultation on draft lake objectives – all impacted/interested parties in lake areas (including commercial/sport fisheries, cottagers, etc.) – advertising through local media, registries, web site for public meetings/workshops
- Other jurisdictions, federal government, First Nations, Aboriginal organizations, other provincial departments
- Where applicable, neighbouring provinces and states should be informed and consulted, where there is a flow from that jurisdiction into the respective lake

**Relative timing:**

- Staged consultation process, following completion of objective 2(a)
- Priorities will need to be established as a part of the consultative process, with respect to application of objectives for watersheds, and Lake Winnipeg and other lakes.

**Information requirements:**

- Compilation of information prepared to this time.
- Documentation of transition from base information to regional/lake application
- Information respecting anticipated impacts/effects
  - Social
  - Environmental
  - Economic
- Information respecting possible implementation methods

**Respective responsibilities:**

- Information generation/dissemination (proposed objectives) – Department
- Advice re: contents/form/recipients of material – Advisory Committee
- Panel, workshops or collaboration could be lead/chaired by the CEC or other appointed body, report and recommendations to the Advisory Committee for review and to the Department for assignment of specific objectives

**Other considerations (e.g. Linkages):**

- Linkages to watershed planning – related to priorities for lake application

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**Objective: 3**

Provide opportunity for effective, broad based input into development of an implementation plan.

**Process:**

- Due to the potentially costly and contentious nature of implementing the nutrient management plan, a multi-faceted approach may be required to maximize its success.
- During the consultation respecting the regional and lake objectives, information will be forthcoming respecting the implications of the objectives, and, thus, the potential for contention, and the issues that will need to be addressed.

- The Department should develop a series of optional approaches for implementation, ranging from voluntary measures, incentives, education, to regulation. Extensive consultation will be required to discuss the optional implementation approaches. It will be important to achieve as much consensus on the approaches as possible, and the consultation should be tailored to the region.
- Depending on the region, the issues and the level of contention, consultation could take a number of directions:
    i. Option A: Panel (CEC or other appointed panel): hear views from the region (watershed); Panel recommends implementation strategy; Department, in conjunction with local authorities, administer strategy.
    ii. Option B: Meetings/workshops (regional) run by CEC or other appointed body to work towards agreement and recommendations on implementation strategy; Department, in conjunction with local authorities, administers strategy.
    iii. Option C: Regional collaborative decision making process led by CEC or other appointed body, to result in recommendations re implementation strategy; Department, in conjunction with local authorities, administers strategy
- Where possible, the discussions should take place in conjunction with the broader watershed planning discussions.

**Participants:**

- Broad participation of interested/impacted people in the region/area
    - Municipal corporations, agricultural producers, local industry, chambers of commerce, planning/conservation districts, environmental groups, cottager associations/ commercial/sport fisherman, lodge and outfitters,
    - Other jurisdictions, federal government, First Nations, Aboriginal organizations, other provincial departments

**Relative timing:**

- On a priority basis, following the development of regional objectives
- Where possible, linked to broader watershed planning

**Information requirements:**

- Broad distribution of all relevant materials re objectives, implementation options, etc.
- Use of public registries, web sites, media advertising

**Respective responsibilities:**

- Information generation/dissemination – Department
- Advice re: contents/form/recipients of material – Advisory Committee

- Panel, workshops or collaboration could be lead/chaired by the CEC or other appointed body, report and recommendations to the Advisory Committee for review and to the Department for the administration of the implementation approaches.
- Local authorities involved in implementation of strategy

**Other considerations (e.g. Linkages):**

- Where possible, discussions should be a part of a broader watershed planning exercise
- Need for ongoing discussions at the intergovernmental level